

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,) CASE NO. CR99-592-MJP
Plaintiff,)
v.)
THONG MINH DUONG,) SUMMARY REPORT OF U.S.
Defendant.) MAGISTRATE JUDGE AS TO
) ALLEGED VIOLATIONS
) OF SUPERVISED RELEASE

An evidentiary hearing on supervised release revocation in this case was scheduled before me on November 30, 2007. The United States was represented by AUSA Carl Blackstone and the defendant by Howard Phillips. The proceedings were digitally recorded.

Defendant had been sentenced on or about March 27, 2000 by the Honorable Marsha J. Pechman on a charge of Bank Fraud, and sentenced to 69 days imprisonment with credit for time served, 5 years supervised release. (Dkt. 20.)

The conditions of supervised release included the standard conditions plus the requirements that defendant be prohibited from possessing a firearm, submit to search, participate in a mental health program, be prohibited from gambling or frequenting a gambling establishment, attend

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01 Gamblers Anonymous, pay restitution in the amount of \$250,000, maintain a single checking
02 account for all financial transactions, disclose all assets and liabilities, obtain the approval of his
03 probation officer for all employment and provide regular pay stubs to probation officer, not work
04 for cash, not possess any identification documents in any but his true identity, provide financial
05 information to IRS to determine tax liability and pay outstanding tax liabilities, not reenter the
06 United States illegally, and contact his probation officer within 72 hours of reentry.

07 Defendant was found to have violated the conditions of supervised release on August 1,
08 2001 by failing to notify his probation officer of a change in residence, failing to submit a timely
09 written monthly report, and by gambling or frequenting a gambling establishment. He was
10 sentenced to four months in custody, plus supervised release of four years and eight months. He
11 was ordered to reside in a halfway house for three months with release privileges. (Dkt. 31.)

12 On May 13, 2002, defendant admitted violating the conditions of supervised release by
13 failing to notify his probation officer of a change in residence, and leaving the judicial district
14 without permission. (Dkt. 37.) Defendant was sentenced to five months in custody, plus four years
15 and two months supervised release. He was ordered to reside in a halfway house for four months.
16 (Dkt. 45.)

17 Defendant's probation officer reported on July 3, 2003 that defendant had failed to make
18 payments toward his restitution obligation. The defendant agreed to bring current all his court
19 ordered financial obligations and was warned that future failure to pay would result in a
20 recommendation for further court action. (Dkt. 47.)

21 On March 24, 2004, defendant's conditions of supervision were modified to require
22 residence in a halfway house for up to 120 days. (Dkt. 48.)

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01 On October 25, 2004, defendant's probation officer reported that defendant had been
02 arrested for theft of a candy bar from a Bartell drug store, and had failed to notify his probation
03 officer of the arrest. When interviewed by his probation officer, he admitted to further violating
04 his supervision by frequenting a gambling establishment. He was reprimanded and advised that
05 further violations would result in court action. (Dkt. 49.)

06 In an application dated October 27, 2005 (Dkt. 51), U.S. Probation Officer Michael J.
07 Larson alleged the following violations of the conditions of supervised release:

08 1. Failing to submit a truthful and complete written report within the first five days
09 of the month for August 2005 and September 2005 in violation of standard condition number two.

10 2. Failing to notify the probation officer at least ten days prior to any change in
11 residence, in violation of standard condition number six.

12 3. Failing to notify the probation officer at least ten days prior to any change in
13 employment, in violation of standard condition number six.

14 4. Failing to make restitution payments in monthly installments as directed by the
15 probation officer for August 2005, September 2005, and October 2005.

16 5. Failing to follow the instructions of the probation officer by failing to notify the
17 probation office that he was unable to make a restitution payment and/or that his ability to pay
18 had changed for the months of August 2005, September 2005, and October 2005, in violation of
19 standard condition number three.

20 Defendant was advised in full as to those charges and as to his constitutional rights.

21 Defendant admitted the alleged violations and waived any evidentiary hearing as to
22 whether they occurred. (Dkt. 56.)

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01 I therefore recommend the Court find defendant violated his supervised release as alleged,
02 and that the Court conduct a hearing limited to the issue of disposition. The next hearing will be
03 set before Judge Pechman.

04 Pending a final determination by the Court, defendant has been detained.

05 DATED this 30th day of November, 2007.

06 
07 Mary Alice Theiler
08 United States Magistrate Judge

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10 cc: District Judge: Honorable Marsha J. Pechman
11 AUSA: Carl Blackstone
Defendant's attorney: Howard Phillips
Probation officer: Michael J. Larson
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